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1 JUL 21 2014 2	
CLERK US DISTRICT COURT DISTRICT OF NEVADA	
BY: _____	DEPUTY _____

IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

5 UNITED STATES OF AMERICA,

6 Plaintiff,

3:01-cr-00038-HDM-RAM

7 vs.

ORDER

8 JAMES FREDERIC GREENE,

9 Defendant.

10 \_\_\_\_\_/

11 Pursuant to Defendant's request (#37) regarding specific  
12 information filed in this matter, the Clerk's office is directed to  
13 provide defendant with a copy of the following:

14 Transcript of Change of Plea (#23) (there is not a transcript  
15 of the sentencing), Judgement (#33), Docket Sheets, Indictment  
16 (#1); and Memorandum of Plea Negotiations (#16).

17 A copy of this order along with the above referenced documents  
18 shall be sent to James Frederic Greene at the following address:

19 James Frederic Green  
20 35757048  
21 F.C.C. Lompoc  
3901 Klein Blvd.  
Lompoc, CA 93436

22 Dated this 21st day of July, 2014.

23

24

*Howard D McKibbin*

UNITED STATES DISTRICT JUDGE

25

26

FILED  
01 DEC 10 PM 3:01  
JANES WILSON  
CLERK  
BY DEPUTY

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEVADA

United States of America,  
Plaintiff,

-vs-

James Frederick Greene,  
Defendant.

NO. CR-N-01-38-HDM(RAM)  
United States District Court  
400 S. Virginia Street  
Reno, Nevada 89501  
July 26, 2001

COPY

TRANSCRIPT OF CHANGE OF PLEA

BEFORE THE HONORABLE HOWARD D. McKIBBEN

UNITED STATES DISTRICT JUDGE

A P P E A R A N C E S:

FOR THE GOVERNMENT:

L. Anthony White  
Assist. United States Attorney

FOR THE DEFENDANT:

Fred H. Atcheson  
Attorney at Law

Proceedings recorded by mechanical stenography produced by  
computer-aided transcript

OFFICIAL COURT REPORTER:

KATHRYN M. FRENCH, RPR  
NEVADA LICENSE NO. 392  
CALIFORNIA LICENSE NO. 8536

PLACED UNDER SEPARATE COVER  
DATE TO SIZE: (# 01 23

1           Reno, Nevada, Thursday, July 26, 2001, 2:30 p.m.

2                               ---OoO---

3           THE CLERK: Case number CR-N-01-38-HDM(RAM), the  
4           United States of America versus James Frederick Greene.

5           The defendant is present. Counsel is present. The  
6           government is represented by Anthony White.

7           THE COURT: Are you ready to proceed? I have a plea  
8           agreement here. We'll have Mr. Greene sworn.

9           MR. WHITE: We're executing the original, Your  
10          Honor. We'll tender it to the Court.

11          THE COURT: All right.

12          Did you read and understand and then sign this plea  
13          agreement?

14          DEFENDANT GREENE: Yes.

15          THE COURT: And what is your level of education,  
16          Mr. Greene?

17          DEFENDANT GREENE: High school diploma.

18          THE COURT: Are you satisfied with your attorney?

19          DEFENDANT GREENE: Yes.

20          THE COURT: Has he failed to do anything you wanted  
21          him to do for you?

22          DEFENDANT GREENE: No.

23          THE COURT: All right. And he was ready to go to  
24          trial with you if that had been your choice, is that right?

25          DEFENDANT GREENE: Yes.

1 THE COURT: Are you on any medication today?

2 DEFENDANT GREENE: No.

3 THE COURT: Have you had full access to

4 Mr. Atcheson?

5 DEFENDANT GREENE: Yes, I have.

6 THE COURT: All right. I'm going to go over the

7 agreement. If you have any question, please let me know.

8 Did you freely and voluntarily sign this agreement?

9 DEFENDANT GREENE: Yes, I did.

10 THE COURT: Did anyone threaten you to have you

11 sign it?

12 DEFENDANT GREENE: No.

13 THE COURT: Did Mr. Atcheson or anyone else promise

14 you anything other than what's in the agreement to have you

15 sign it?

16 DEFENDANT GREENE: No.

17 THE COURT: You did it of your own freewill?

18 DEFENDANT GREENE: Yes, I did.

19 THE COURT: All right. And you understand the

20 sentencing guidelines apply in this case?

21 DEFENDANT GREENE: Yes.

22 THE COURT: You've discussed those with

23 Mr. Atcheson?

24 DEFENDANT GREENE: Yes, I have.

25 THE COURT: You've received a copy of the

1 indictment, is that right?

2 DEFENDANT GREENE: Yes.

3 THE COURT: Do you waive us reading it to you at  
4 this time?

5 (No response.)

6 THE COURT: Do you want us to read it to you?

7 MR. ATCHESON: We'll waive, Your Honor.

8 THE COURT: All right.

9 Now, you're going to plead guilty to an indictment  
10 of a felon in possession of a firearm, which is a violation of  
11 Title 18 U.S. Code Section 922(g)(1), is that right?

12 DEFENDANT GREENE: Yes.

13 THE COURT: The Court may consider any relevant  
14 facts and circumstances of the offense under relevant conduct  
15 to determine the appropriate sentence.

16 Do you understand that?

17 DEFENDANT GREENE: Yes.

18 THE COURT: The parties believe, but of course  
19 I'm not bound by that, but they believe at this point that  
20 the base offense level for this offense is 14 under the  
21 guidelines.

22 Do you understand that?

23 DEFENDANT GREENE: Yes.

24 THE COURT: There would be a 2-level reduction  
25 for acceptance of responsibility if you continue to accept

1 responsibility.

2 Do you understand that?

3 DEFENDANT GREENE: Yes.

4 THE COURT: Criminal history category will be based  
5 upon what prior offenses you may have, if any.

6 Do you understand that?

7 DEFENDANT GREENE: Yes.

8 THE COURT: And I'll impose a sentence under the  
9 guidelines and policy statements. The government is going to  
10 agree to make a recommendation for a sentence at the low end  
11 of the guideline range.

12 Do you understand that?

13 DEFENDANT GREENE: Yes.

14 THE COURT: You're waiving any right to appeal any  
15 judgment and sentence that I impose. You only reserve the  
16 right to appeal if I were to depart upward and outside the  
17 guideline range.

18 Do you understand that?

19 DEFENDANT GREENE: Yes.

20 THE COURT: Under Title 18 U.S. Code Section 922(g)  
21 and 924, the penalty could be up to, but not more than 10  
22 years imprisonment and a fine not to exceed \$250,000, or both  
23 fine and imprisonment.

24 Do you understand that?

25 DEFENDANT GREENE: Yes.

1           THE COURT: Under the sentencing guidelines,  
2 adjusted offense level of 12, it is 10 to 16 months. If it's  
3 a criminal history category 1, up to 30 to 37 months for a  
4 criminal category of 6.

5           Do you understand that?

6           DEFENDANT GREENE: Yes.

7           THE COURT: Parole has been abolished, so whatever  
8 sentence I will impose, if it's a prison term, you could not  
9 be released early on parole.

10          Do you understand that?

11          DEFENDANT GREENE: Yes.

12          THE COURT: I will impose a period of supervised  
13 release. It will be at least two-years, not more than three  
14 years.

15          Do you understand that?

16          DEFENDANT GREENE: Yes.

17          THE COURT: I could also impose a fine, anywhere  
18 from \$3,000 to \$30,000. If you don't have the ability to pay,  
19 I could order community service.

20          Do you understand that?

21          DEFENDANT GREENE: Yes.

22          THE COURT: And I will impose the mandatory  
23 assessment of \$100.

24          Do you understand that?

25          DEFENDANT GREENE: Yes.

1 THE COURT: If we went to trial, the government  
2 would have to prove beyond a reasonable doubt that you  
3 knowingly possessed a firearm; that is, a Smith and Wesson  
4 .45 caliber semiautomatic pistol, serial number AIP-7484;

5 The firearm had been shipped or transported in  
6 interstate commerce; and

7 That you possessed the firearm at a time you had  
8 been convicted of a crime punishable by imprisonment for a  
9 term exceeding one year.

10 Do you understand each of those elements?

11 DEFENDANT GREENE: Yes.

12 THE COURT: Actually, I think there's a typo on page  
13 4. That ought to read first, second, and third. It has first  
14 second and second.

15 MR. WHITE: Your Honor, we have --

16 THE COURT: Or is that another second?

17 MR. WHITE: No, that's correct, Your Honor.

18 Mr. Atcheson brought that to my attention. We've corrected it  
19 and initialed it on the original.

20 THE COURT: All right. So the original is correct.  
21 All right.

22 The facts to support the plea are contained on  
23 pages 4 and 5. Are all those facts true to the best of your  
24 knowledge?

25 DEFENDANT GREENE: Yes.



1 THE COURT: All right. And then you acknowledge  
2 certain rights and waive those, is that correct?

3 DEFENDANT GREENE: Yes.

4 THE COURT: Let me go over those.

5 Do you understand you have the right to a speedy and  
6 public jury trial?

7 DEFENDANT GREENE: Yes.

8 THE COURT: You have the right to confront witnesses  
9 against you and cross-examine those witnesses through your  
10 attorney.

11 Do you understand that?

12 DEFENDANT GREENE: Yes.

13 THE COURT: You also have the privilege against  
14 self-incrimination.

15 Do you understand that?

16 DEFENDANT GREENE: Yes.

17 THE COURT: You have the right to have Mr. Atcheson  
18 represent you at that trial, and give testimony on your own  
19 behalf if you see fit to do that.

20 Do you understand that?

21 DEFENDANT GREENE: Yes.

22 THE COURT: You also have the right to have the  
23 clerk issue subpoenas to compel witnesses on your own behalf.

24 Do you understand that?

25 DEFENDANT GREENE: Yes.

1 THE COURT: This would be a second felony, at least,  
2 and if you get more felonies, there could be a habitual  
3 criminal statute that might apply, and you could be looking  
4 up to 20 years to life imprisonment if you're convicted again.

5 Do you understand that?

6 DEFENDANT GREENE: Yes, I do.

7 THE COURT: You could lose certain federal benefits  
8 as a result of a felony conviction.

9 Do you understand that?

10 DEFENDANT GREENE: Yes.

11 THE COURT: Significantly, not only are you  
12 waiving your right to appeal in this case, but you're waiving  
13 the right to challenge any evidence that might have been  
14 seized against you, or statements taken from you in violation  
15 of your Constitutional rights.

16 Do you understand that?

17 DEFENDANT GREENE: Yes.

18 THE COURT: Do you have any questions about the  
19 nature of the offense or the possible penalty?

20 DEFENDANT GREENE: No, I don't.

21 THE COURT: All right. Thank you. If you will  
22 stand, please.

23 To the indictment charging you with felon in  
24 possession of a firearm, a violation of Title 18 U.S.  
25 Code Section 922(g)(1), what's your plea; are you guilty or

1 not guilty?

2 DEFENDANT GREENE: Guilty.

3 THE COURT: All right. You may be seated.

4 Again, you've entered that plea freely and  
5 voluntarily?

6 DEFENDANT GREENE: Yes, I have.

7 THE COURT: Has anyone threatened you or promised  
8 you anything?

9 DEFENDANT GREENE: No, they haven't.

10 THE COURT: Do you understand you've waived the  
11 right to a speedy and public jury trial?

12 DEFENDANT GREENE: Yes, I do.

13 THE COURT: You've waived your right to confront  
14 witnesses against you.

15 DEFENDANT GREENE: Yes.

16 THE COURT: And you've waived your right to confront  
17 those witnesses and to cross-examine them.

18 Do you understand that?

19 DEFENDANT GREENE: Yes.

20 THE COURT: And you've waived that privilege against  
21 self-incrimination, and you've waived the right to have your  
22 counsel present and represent you during the trial.

23 Do you understand that?

24 DEFENDANT GREENE: Yes.

25 THE COURT: Just tell me in your own words what you

1 did now that causes you to plead guilty.

2 DEFENDANT GREENE: What I did?

3 THE COURT: Yes. What did you do?

4 DEFENDANT GREENE: I was in possession of a firearm.

5 THE COURT: Had you been convicted of a felony  
6 before?

7 DEFENDANT GREENE: Yes, I was.

8 THE COURT: Did you know one of the conditions was  
9 that you couldn't possess a firearm?

10 DEFENDANT GREENE: At that time, no, I didn't.

11 THE COURT: They didn't tell you about that?

12 DEFENDANT GREENE: Actually, no.

13 THE COURT: I find that hard to believe.

14 DEFENDANT GREENE: Well, my parole officer is an  
15 individual that wanted me, not only to never get out of the  
16 penitentiary, but really fought for the fact of representing  
17 me, so it was a conflict of interest from the beginning  
18 between her and I.

19 THE COURT: You know, maybe you ought to talk with  
20 your attorney and then I'll ask you these questions again.

21 DEFENDANT GREENE: All right.

22 THE COURT: It would probably be a little beneficial  
23 if you just chat with him for a second.

24 (Defendant confers with counsel.)

25 THE COURT: Let me assume for a moment that your

1 parole officer didn't talk to you about that and he didn't  
2 like you very much. Did you have some inkling that if you  
3 were a felon that maybe you couldn't carry a firearm?

4 DEFENDANT GREENE: Yes, I did.

5 THE COURT: All right.

6 And, in fact, you were a felon, you had been  
7 convicted of a felony, and you had a firearm that was  
8 transported in interstate commerce, is that true?

9 DEFENDANT GREENE: Yes.

10 THE COURT: All right. I'll accept your plea as  
11 having been made freely and voluntarily. I'll refer this  
12 matter to the Department for a presentence report. We'll  
13 continue it for imposition of judgment and sentence --  
14 Mr. Atcheson?

15 MR. ATCHESON: Your Honor, regarding his statement  
16 about his activities with Parole and Probation, his probation  
17 supervisor, parole supervisor was Mary Doyle, and he just  
18 didn't get along with her. She didn't explain much of  
19 anything to him, and he didn't talk much about anything with  
20 her. They were like oil and water from the start.

21 THE COURT: Well, we have --

22 MR. ATCHESON: But, he knew.

23 THE COURT: -- we have really fine people in our  
24 Department. So, if you don't get along with them, I'm going  
25 to have trouble believing that it's their problem.

1 MR. ATCHESON: I'm sure we'll all get along  
2 famously, Your Honor.

3 THE COURT: It definitely helps, I'll tell you that.  
4 What time did you have, Miss Clerk?

5 THE CLERK: The 26th of October at 8:45, Your Honor.

6 THE COURT: October 26th at 8:45.

7 All right. Thank you very much. That's all. If we  
8 have a trial date on this, it will be vacated.

9 (Court adjourned.)  
10  
11

12 I certify that the foregoing is a correct transcript from  
13 the record of proceedings in the above-entitled matter.  
14

15 Kathryn French

16 KATHRYN M. FRENCH, RPR, CCR

12-10-01

DATE

17  
18  
19  
20  
21  
22  
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24  
25

## UNITED STATES DISTRICT COURT

District of

NEVADA

UNITED STATES OF AMERICA

V.

## JUDGMENT IN A CRIMINAL CASE

(For Offenses Committed On or After November 1, 1987)

JAMES FREDERICK GREENE

Case Number:

CR-N-01-038-HDM(RAM)

## THE DEFENDANT:

☒ pleaded guilty to count(s) One☐ pleaded nolo contendere to count(s)  
which was accepted by the court.☐ was found guilty on count(s)  
after a plea of not guilty.

ACCORDINGLY, the court has adjudicated that the defendant is guilty of the following offense(s):

Title & Section18 U.S.C. § 922(g)(1)  
and 924(a)(2)Nature of Offense

Felon in Possession of a Firearm

Date OffenseConcluded

2-16-2001

CountNumber(s)

1

The defendant is sentenced as provided in pages 2 through \_\_\_\_\_ of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐ The defendant has been found not guilty on count(s) \_\_\_\_\_☐ Count(s) \_\_\_\_\_ ☐ is ☐ are dismissed on the motion of the United States.

IT IS ORDERED that the defendant shall notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant shall notify the court and United States attorney of any material change in the defendant's economic circumstances.

Defendant's Soc. Sec. No.: 557-29-7230Defendant's Date of Birth: 11/23/71Defendant's USM No.: 35757-048

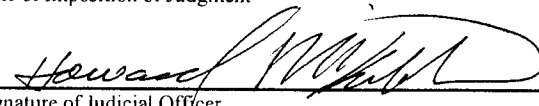
Defendant's Residence Address:

custody

Defendant's Mailing Address:

February 7, 2002

Date of Imposition of Judgment

  
Signature of Judicial OfficerHOWARD D. McKIBBEN, Chief United States District Judge  
Name and Title of Judicial OfficerFebruary 8, 2002

Date

33

DEFENDANT: GREENE, JAMES FREDERICK  
CASE NUMBER: CR-N-01-038-HDM(RAM)

### IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of twenty-one (21) months. This term of incarceration shall run consecutively to the Nevada state sentence defendant is currently serving (CR90-1942).

☐ The court makes the following recommendations to the Bureau of Prisons:

☒ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district:

☐ at \_\_\_\_\_ ☐ a.m. ☐ p.m. on \_\_\_\_\_.

☐ as notified by the United States Marshal.

☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☐ before 2 p.m. on \_\_\_\_\_.

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

### RETURN

I have executed this judgment as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Defendant delivered on \_\_\_\_\_ to \_\_\_\_\_

at \_\_\_\_\_, with a certified copy of this judgment.

\_\_\_\_\_  
UNITED STATES MARSHAL

By \_\_\_\_\_  
DEPUTY UNITED STATES MARSHAL



DEFENDANT: GREENE, JAMES FREDERICK  
CASE NUMBER: CR-N-01-038-HDM(RAM)

**SUPERVISED RELEASE**

Upon release from imprisonment, the defendant shall be on supervised release for a term three (3) years

The defendant shall report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not illegally possess a controlled substance. Revocation is mandatory for illegal possession of a controlled substance.

*For offenses committed on or after September 13, 1994:*

The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter. Revocation is mandatory for refusal to comply.

☐ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse.

☒ The defendant shall not possess a firearm, destructive device, or any other dangerous weapon.

If this judgment imposes a fine or a restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine or restitution that remains unpaid at the commencement of the term of supervised release in accordance with the Schedule of Payments set forth in the Criminal Monetary Penalties sheet of this judgment.

The defendant shall comply with the standard conditions that have been adopted by this court (set forth below). The defendant shall also comply with the additional conditions on the attached page.

**STANDARD CONDITIONS OF SUPERVISION**

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court;
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: GREENE, JAMES FREDERICK  
CASE NUMBER: CR-N-01-038-HDM(RAM)

### **SPECIAL CONDITIONS OF SUPERVISION**

1. Defendant shall submit to the search of his person and any property, residence or automobile under his control by the probation officer, or any other authorized person under the immediate and personal supervision of the probation officer without a search warrant to insure compliance with all conditions of release.
2. Defendant shall participate in and successfully complete a substance abuse treatment program, which will include drug testing, outpatient counseling, or residential placement, as approved and directed by the probation officer.
3. Defendant shall refrain from the use and possession of beer, wine, liquor, and other forms of intoxicants.
4. Defendant shall submit to drug testing as directed by the probation officer.
5. Defendant shall participate in and complete a mental health treatment program, which may include testing, evaluation, medication management, outpatient counseling or residential placement, as approved and directed by the probation officer.

DEFENDANT: GREENE, JAMES FREDERICK  
CASE NUMBER: CR-N-01-038-HDM(RAM)

### CRIMINAL MONETARY PENALTIES

The defendant shall pay the following total criminal monetary penalties in accordance with the schedule of payments set forth on Sheet 5, Part B.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
<b>TOTALS</b>	\$ 100.00	\$ None	\$ None

☐ The determination of restitution is deferred until \_\_\_\_\_. An *Amended Judgment in a Criminal Case* (AO 245C) will be entered after such determination.

☐ The defendant shall make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid in full prior to the United States receiving payment.

<u>Name of Payee</u>	<u>*Total Amount of Loss</u>	<u>Amount of Restitution Ordered</u>	<b>Priority Order or Percentage of Payment</b>
----------------------	----------------------------------	--	--

**TOTALS**                      \$ \_\_\_\_\_                      \$ \_\_\_\_\_

☐ If applicable, restitution amount ordered pursuant to plea agreement \$ \_\_\_\_\_

☐ The defendant shall pay interest on any fine or restitution of more than \$2,500, unless the fine or restitution is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 5, Part B may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

☐ The court determined that the defendant does not have the ability to pay interest, and it is ordered that:

☐ the interest requirement is waived for the ☐ fine and/or ☐ restitution.

☐ the interest requirement for the ☐ fine and/or ☐ restitution is modified as follows:

\* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18, United States Code, for offenses committed on or after September 13, 1994 but before April 23, 1996.

DEFENDANT: GREENE, JAMES FREDERICK  
CASE NUMBER: CR-N-01-038-HDM(RAM)

### SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties shall be due as follows:

- A ☒ Lump sum payment of \$ 100.00 due immediately.
- ☐ not later than \_\_\_\_\_, or  
☐ in accordance with ☐ C, ☐ D, or ☐ E below; or
- B ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ E below); or
- C ☐ Payment in \_\_\_\_\_ (e.g., equal, weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☐ Payment in \_\_\_\_\_ (e.g., equal, weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E ☐ Special instructions regarding the payment of criminal monetary penalties:

Unless the court has expressly ordered otherwise in the special instruction above, if this judgment imposes a period of imprisonment, payment of criminal monetary penalties shall be due during the period of imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court, unless otherwise directed by the court, the probation officer, or the United States attorney.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☐ Joint and Several

Defendant Name, Case Number, and Joint and Several Amount:

- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):
- ☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) community restitution, (6) fine interest (7) penalties, and (8) costs, including cost of prosecution and court costs.

UNITED STATES DISTRICT COURT  
CRIMINAL DOCKET

GREENE

Page 3  
CR-N-01-38-HDM RAM

AO 256A

DATE	PROCEEDINGS (continued)	V. EXCLUDABLE DELAY			
	(Document No.)	(a)	(b)	(c)	(d)
7/11/01	14 MINUTE ORDER re GREENE (HDM) ORD change of plea set 7/26/01 230pm. Cal call vac. cps dist wj (AT)				
7/26/01	15 MINUTES/CHANGE OF PLEA re GREENE dtd 7/26/01 (HDM) D pld Guilty Ct 1; ORD impo of sentence set 10/26/01 845am; Trial vac; D remanded; (C/R Kathryn French) cps dist wj (AT)				
--	16 MEMORANDUM OF PLEA NEGOTIATION re GREENE. wj				
9/14/01	17 MINUTE ORDER re GREENE (HDM) ORD impo of sentence cont from 10/26/01 to 10/29/01, 8am. cnsl teleph notif. cps dist wj (AT)				
10/24/01	18 OBJECTIONS to presentence investigation rpt obo GREENE. wj (AT)				
10/25/01	-- SUB to HDM Item #18 (AT) wj				
10/29/01	19 MINUTES/SENTENCING re GREENE dtd 10/29/01 (HDM) ORD that ths hrng is cont to 11/29/01 at 430pm D remanded; (C/R Kathryn French) cps dist wj (AT)				
11/6/01	20 <del>X</del> MOTION to compel specific performance of plea agreement alt req for downward departure obo GREENE. wj (AT) 31				
11/27/01	21 MINUTE ORDER re GREENE (HDM) ORD sentencing 11/29/01 is cont to 12/5/01, 2pm. cps dist wj (AT)				
12/03/01	-- RECEIVED stip to cont sentencing date. (AT) lm				
12/4/01	22 STIPULATION/ORDER re GREENE (HDM) ORD sentencing 12/5/01 vac and resched for 12/20/01 9am. cps dist wj (AT)				
12/10/01	23 <u>REPORTER'S TRANSCRIPT</u> of GREENE's change of plea dtd 7/26/01 bef HDM. (C/R Kathryn French) wj				
12/20/01	24 MINUTES/SENTENCING re GREENE dtd 12/20/01 (HDM) ORD that the sentencing is cont to 1/4/02, 10am. FUR ORD parties hv to and incl 12/28/01 whch to file uspplemental briefs on the issue of impo of a consecutive or concurrent sentence. D reamdnd. (C/R Kathryn French) cps dist wj (AT)				
--	25 LETTER dtd 12/20/01 re GREENE from L. Anthony White, AUSA, explaining circumstances surrounding D's sentencing situation. wj				

CONT ON PAGE 4

Interval  
(per Section II)Start Date  
End DateLtr. Total  
Code Days

UNITED STATES DISTRICT COURT  
CRIMINAL DOCKET

U.S. vs

GREENE

Page 4

CR-N-01-038-HDM RAM

AO 256A-@

Yr. Docket No. Def.

DATE	PROCEEDINGS (continued)		V. EXCLUDABLE DELAY			
			(a)	(b)	(c)	(d)
	(Document No.)					
12/28/01	26	RESPONSE to Supplemental addendum (#25) obo GREENE. wj (AT)				
12/31/01	--	SUB to HDM IItem #25 and #26 (AT) wj				
1/3/02	27	STIPULATION/ORDER re GREENE (HDM) ORD sentencing 1/4/02 cont to 1/17/02, 10am. cps dist wj (AT)				
1/16/02	28	STIPULATION/ORDER re GREENE (HDM) ORD sentencing 1/17/02, 10am cont to 1/31/02, 2pm. cps dist wj (AT)				
1/31/02	29	MINUTES/TIME SET FOR SENTENCING re GREENE dtd 1/31/02 (HDM) ORD sentenc cont to 2/8/02, 8am. No fur cont of sentence date. D remanded; (C/R Kathryn French) cps dist wj (AT)				
2/6/02	30	MINUTE ORDER re GREENE (HDM) ORD time set for impo of sentence is advcd from 2/8/02 to 2/7/02, 2pm. cps dist wj (AT)				
2/7/02	31	MINUTES/SENTENCING re GREENE dtd 2/7/02 (HDM) Crt denies D's mtn for concurrent sentence and overrules D's obj to the 6 level incarees; Govt mtn for downward departure is granted. D applicatin for departure to level set forth in plea agreement is granted. (C/R Kathryn French) cps dist wj (AT)				
2/11/02	--	JS-3 re GREENE. wj (AT)				

Interval  
(per Section II)Start Date  
End DateLtr. Total  
Code Days

CLOSED

**United States District Court  
District of Nevada (Reno)  
CRIMINAL DOCKET FOR CASE #: 3:01-cr-00038-HDM-RAM All Defendants**

Case title: USA v. Greene

Date Filed: 03/07/2001

Assigned to: Judge Howard D.  
McKibben  
Referred to: Magistrate Judge Robert  
A McQuaid, Jr

**Defendant (2)**

**James Frederick Greene**  
35757048  
LOMPOC  
U.S. PENITENTIARY  
Inmate Mail/Parcels  
3901 KLEIN BLVD  
LOMPOC, CA 93436

represented by **Fred H. Atcheson**  
Fred Hill Atcheson  
P.O. Box 8292  
Reno, NV 89507  
(775) 771-3037  
Fax: (775) 323-6371  
Email: fredatcheson@gmail.com  
**LEAD ATTORNEY**  
*Designation: CJA Appointment*

**Pending Counts**

Felon in Possessin of a Firearm  
(1)

**Disposition**

Sentenced 2/8/2002

**Highest Offense Level (Opening)**

Felony

**Terminated Counts**

None

**Disposition**

**Highest Offense Level  
(Terminated)**

None

**Complaints**

None

**Disposition**

**Plaintiff****USA**represented by **Daniel G. Bogden**










United States Attorney's Office

333 Las Vegas Blvd. So.

Las Vegas, NV 89101

702-388-6336

Email: [dbogden@usdoj.gov](mailto:dbogden@usdoj.gov)**LEAD ATTORNEY****ATTORNEY TO BE NOTICED**

<b>Date Filed</b>	<b>#</b>	<b>Docket Text</b>
03/07/2001	 <u>1</u>	INDICTMENT as to James Frederick Greene. (DRM) Modified on 5/12/2014 (DRM). (Entered: 05/12/2014)
02/08/2002	 <u>33</u>	JUDGMENT as to James Frederick Greene. (DRM) Modified on 5/12/2014 (DRM). (Entered: 05/12/2014)
02/20/2009	 <u>34</u>	MOTION <i>Requesting Reconsideration of Sentence or Modification of Sentence</i> , by James Frederick Greene as to James Frederick Greene. Responses due by 3/6/2009. (DRM) Modified on 2/24/2009 to give the next correct docket number. (WJ). (Entered: 02/24/2009)
02/24/2009	 <u>35</u>	ORDER. IT IS ORDERED, Defendant's <u>34</u> Motion for Reconsideration or Modification of Sentence is DENIED. Signed by Judge Howard D. McKibben on 2/24/09. (Copies have been distributed pursuant to the NEF - KO) (Entered: 02/24/2009)
05/12/2014	 <u>36</u>	*** ORIGINAL HARD COPY DOCKET SHEET *** (DRM) Modified on 5/12/2014 (DRM). (Main Document 36 replaced on 5/12/2014) (DRM). (Entered: 02/25/2009)
06/18/2014	  <u>37</u>	MOTION - <i>Transcript Request Regarding Case No. CR-N-01-038-HDM</i> , by Defendant James Frederick Greene. Responses due by 7/5/2014. (KR) (Entered: 06/18/2014)
07/16/2014	  <u>38</u>	MOTION <i>Transcript Request Regarding Case No. CR-N-01-038-HDM-RAM</i> by James Frederick Greene. Responses due by 8/2/2014. (JC) (Entered: 07/16/2014)



1 KATHRYN E. LANDRETH  
2 United States Attorney  
3 L. ANTHONY WHITE  
4 Assistant United States Attorney  
100 W. Liberty Street, Suite 600  
Reno, Nevada 89501  
Tele: (775) 784-5438

5 Attorneys for Plaintiff

6 UNITED STATES DISTRICT COURT  
7 DISTRICT OF NEVADA

8 UNITED STATES OF AMERICA,

9 Plaintiff,

10 v.

11 JAMES FREDERICK GREENE,

12 Defendant.

CR-N-01-0038-HDM-RAM

INDICTMENT FOR VIOLATION OF:  
TITLE 18, UNITED STATES CODE,  
SECTION 922(g)(1) - Felon in Possession  
of a Firearm

13 THE GRAND JURY CHARGES THAT:

14 On or about February 16, 2001, in the state and District of Nevada, the defendant,  
15 JAMES FREDERICK GREENE, having been convicted of a crime punishable by imprisonment  
16 for a term exceeding one year, did knowingly receive and possess a firearm, to wit: one Smith and  
17 Wesson, .45 caliber semi-automatic pistol, serial number AIP7484, which had been transported in  
18 interstate commerce;  
19

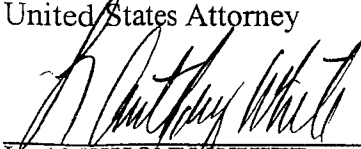
20 All in violation of Title 18, United States Code, Sections 922(g)(1) and 924(a)(2).

21 Dated this 7 day of March, 2001.

22 A TRUE BILL.

23  
24   
25 FOREPERSON

26 KATHRYN E. LANDRETH  
United States Attorney

  
L. ANTHONY WHITE  
Assistant United States Attorney

FILED

2001 MAR -7 PM 2:18

LANCE S. WILSON

CLERK

BY

DEPUTY



U.S. Department of Justice

United States Attorney  
District of Nevada


100 West Liberty, Suite 600  
Reno, Nevada 89501

(775) 784-5438  
FAX: (775) 784-5181

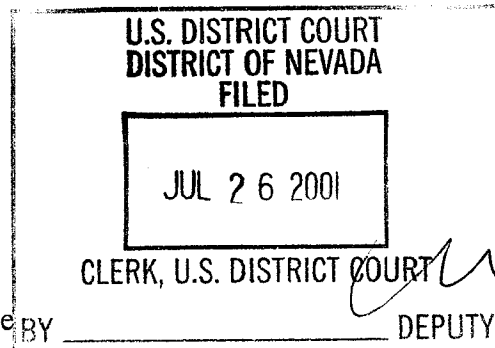
July 11, 2001

MEMORANDUM OF PLEA NEGOTIATION

TO: Honorable Howard D. McKibben  
United States District Judge

FROM: L. Anthony White   
Assistant United States Attorney

SUBJECT: United States v. James Frederick Greene BY  
Criminal No. N-01-38-HDM(RAM)



I. PLEA NEGOTIATION

The defendant, JAMES FREDERICK GREENE, is charged in a one-count indictment filed March 7, 2001, with Felon in Possession of a Firearm, in violation of Title 18, United States Code, Section 922(g)(1). The Government and the defendant have agreed to the following:

1. The defendant will plead guilty as charged in the Indictment to Felon in Possession of a Firearm, a violation of Title 18, United States Code, Section 922(g)(1).
2. The Court may consider all of the relevant facts and circumstances of the offense charged under U.S.S.G. §1B1.3—Relevant Conduct, when deciding the appropriate sentence.
3. This plea is made pursuant to Rule 11(e)(1)(A) and (B) of the Federal Rules of Criminal Procedure and is not intended to be binding on the Court.
4. The parties agree that the Base Offense Level for the offense set forth in the Indictment is a Level 14, pursuant to U.S.S.G. §2K2.1(a)(6)(A) as the defendant is a prohibited person by virtue of a felony conviction.
5. The parties agree that the Specific Offense Characteristic of §2K2.1(b)(5) does not apply as there is no evidence that the defendant intended any particular felony act.

16

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6. The Government agrees to not oppose the defendant's request for a reduction of 2 levels for Acceptance of Responsibility under U.S.S.G. §3E1.1 as long as the defendant continues to clearly demonstrate his Acceptance of Responsibility in all further criminal proceedings, including the interview with the United States Probation Office. This would adjust defendant's Offense Level to 12.

7. The Parties agree that the United State Attorney's Office is not bound by the United States Probation Office's decision as to whether the defendant has accepted responsibility and it is understood that the United States Attorney's Office will make its own independent evaluation of this adjustment to the offense level.

8. The parties agree that the Offense Level and the possible Criminal History Category are based upon information concerning this offense and the defendant as it is known at the present time and could change based upon the investigation by the United States Probation Office and the findings of the District Court at the time of sentencing. Specifically, the parties have made no agreement concerning the defendant's prior criminal history.

9. The defendant is aware that his sentence will be imposed in accordance with the Federal Sentencing Guidelines and Policy Statements. The defendant is aware that the Court has jurisdiction and authority to impose any sentence within the statutory maximum set for the offense to which the defendant pleads guilty. The Government agrees not to seek an upward departure. The Government agrees to make a recommendation at the low-end of the final U.S.S.G. range.

10. The defendant is also aware that Title 18, United States Code, Section 3742 gives the defendant a right to appeal the sentence to be imposed and that other federal laws give the defendant rights to appeal other aspects of his conviction. In exchange for the concessions made by the United States in the instant plea agreement, the defendant knowingly and expressly waives his right to appeal any sentence to be imposed that is within the applicable sentencing guideline range, further waives his right to appeal the manner in which that sentence was determined on the grounds set forth in Title 18, United States Code, Section 3742, and further waives his right to appeal any other aspect of his conviction or sentence. The defendant reserves only the right to appeal any sentence imposed to the extent, but only to the extent, that the sentence is an upward departure and outside the range established by the applicable sentencing guidelines.

11. The parties agree that there are no adjustments applicable under Chapter 3, specifically no adjustments for victims, role in the offense, or obstruction of justice.

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II. PENALTY:

Statutory:

Title 18, United States Code, Sections 922(g) and 924 provides for a penalty of imprisonment for not more than 10 years.

Title 18, United States Code, Section 3571(b)(3), provides that a fine of not more than \$250,000.00 may be imposed in addition to any term of imprisonment.

Sentencing Guidelines:

Pursuant to the United States Sentencing Guidelines, the defendant's possible range of sentence for an Adjusted Offense Level of 12, is 10-16 months for Criminal History I, and 30-37 months for Criminal History VI, depending upon the Court's determination of the Offense level and the Criminal History Category.

A federal prison sentence can no longer be shortened by early release on parole, because parole has been abolished. However, under U.S.S.G. §5D1.1, a term of Supervised Release following a term of imprisonment is required when the term of imprisonment is more than 1 year. Under Title 18, United States Code, Section 3559(a)(3), the offense of Felon in Possession of <sup>FIRE ARM</sup> ~~Ammunition~~ is a Class C felony and, therefore, pursuant to U.S.S.G. §5D1.2(b)(2), a term of Supervised Release of at least 2 <sup>year</sup> ~~years~~, but not more than 3 years, must be ordered. <sup>file</sup>

Under U.S.S.G. §5E1.2(c), a fine may be imposed depending upon the Court's finding of the appropriate Offense Level, which may range from a minimum of \$3,000.00 to a maximum of \$30,000.00. However, U.S.S.G. §5E1.2(f) allows the Court to waive any fine, impose a lesser fine or an alternative sanction, such as community service, if a defendant establishes he does not have the ability to pay a fine.

Title 18, United States Code, Section 3663, and U.S.S.G. §5E1.1 permit restitution as deemed appropriate by the Court.

A mandatory special assessment under Title 18, United States Code, Section 3013, and U.S.S.G. §5E1.3 of \$100.00 for each count of conviction must be imposed.

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III. ESSENTIAL ELEMENTS OF THE OFFENSE:

Before a verdict of guilty may be reached, the Government must prove beyond a reasonable doubt the following essential elements:

First: That the defendant knowingly possessed a firearm, to wit: one Smith and Wesson .45 caliber semi-automatic pistol, serial number AIP7484,

Second: That the above-described firearm had been shipped or transported in interstate commerce; and

~~THIRD~~

~~Second:~~ That at the time the defendant possessed said firearm, the defendant had been convicted of a crime punishable by imprisonment for a term exceeding one year.

IV. FACTUAL STIPULATION RELEVANT TO SENTENCING:

Defendant JAMES FREDERICK GREENE is a convicted felon, having been convicted of the offense of Second Degree Murder on February 6, 1991. GREENE served approximately ten years of a 50-year sentence and was subsequently released on parole in September of 2000. Upon GREENE's release, his Nevada State Parole Officer was Mary Doyle. On February 7, 2001, GREENE tested positive for marijuana and subsequently had his parole revoked by the Nevada Board of Parole Commissioners.

Several different witnesses, including GREENE's parole officer, Mary Doyle, assist the Government in proving beyond a reasonable doubt that between the approximate dates of February 16, 2001, until GREENE's arrest by parole authorities on February 23, 2001, GREENE was in possession of the Smith and Wesson .45 caliber semi-automatic pistol described in the Indictment.

The Government's evidence will be that GREENE was not using this firearm for any other known offense, but did personally possess, manipulate and otherwise handled this firearm in the presence of witnesses.

On or about February 27, 2001, GREENE was contacted by Special Agents of the Bureau of Alcohol, Tobacco and Firearms, who conducted a custodial interview of GREENE at the Washoe County Jail. After the proper advisement of his constitutional rights, GREENE waived said rights and admitted to receiving and possessing the Smith and Wesson .45 caliber semi-automatic pistol, described and discussed in this plea agreement. GREENE received this firearm from separately charged criminal

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Page 5

associate Tamoye Laquin Johnson. GREENE and Johnson were friends and associates while they were both incarcerated at the Nevada State Prison. Both GREENE and Johnson have had their paroles violated and, pursuant to ATF and Nevada State Parole investigation, the firearm in question has been recovered and is in the possession of ATF.

V. STATEMENT OF THE DEFENDANT:

I, JAMES FREDERICK GREENE, hereby acknowledge that I have thoroughly read and reviewed this memorandum with my attorney and agree that this memorandum completely and accurately states the facts supporting my plea of guilty and the negotiations between myself, my attorney, and the United States Attorney's Office. I have discussed the contents of this memorandum with my attorney and she has explained it to my satisfaction.

I have explained the facts and circumstances surrounding this case completely to my attorney and have been advised of what legal courses of action I might take. These discussions have included what might happen if I go to trial, what evidence the Government has against me, and the possible defenses, if any, I may have to these criminal charges.

My attorney has not promised me anything not mentioned in this plea memorandum and, in particular, my attorney has not promised that I will get any specific sentence. I understand that any discussions with my attorney about the possible sentence I might receive from the Court are just predictions and not binding on the Court. I know I cannot withdraw my guilty plea because my attorney's sentencing predictions turn out to be wrong.

My attorney has also explained to me my Constitutional Rights, including my right to a jury trial, to confront my accusers, to call witnesses on my own behalf, and my right to remain silent. My attorney has further explained to me that I have to waive these rights, that is, give them up, in order to have my guilty plea accepted by the Court.

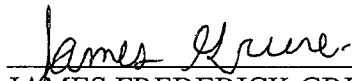
I understand that the United States Attorney's Office will fully inform the Court and the United States Probation Office of the nature, scope, and extent of my conduct regarding the facts and circumstances of the charges against me, and any and all related matters in aggravation or mitigation concerning the issue of my sentencing.

I know if the Government is making a non-binding recommendation as to what type of sentence I should receive, the Court does not have to follow that recommendation. I also understand that I cannot withdraw my guilty plea because the Court decides to not follow the non-binding sentencing recommendation of the Government.

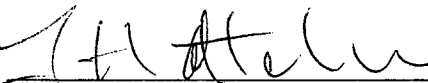
July 11, 2001  
Page 6

I further understand that the matter of sentencing is entirely up to the Court. Any stipulations or agreements between myself, my attorney, and the United States Attorney's Office are not binding upon the Court. I know the Court will decide my sentence based upon the facts of this case, my personal background, and the Sentencing Guidelines. I fully understand that my sentence could be anywhere within the range set forth in Section II of this memorandum.

Finally, I understand that the decision to plead guilty or go to trial is mine alone. As stated above, I have discussed this case fully with my attorney and received legal advice about what is the best course of action that I should take. My decision after receiving this advice is to plead guilty under this agreement.

  
\_\_\_\_\_  
JAMES FREDERICK GREENE  
Defendant

7-26-01  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
FRED HILL ATCHESON, ESQ.  
Counsel for defendant

7-26-01  
\_\_\_\_\_  
Date